



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

May 12, 2005

REGISTERED MAIL
RB 253 008 275 US

Mr. Bart Alford
City of Tacoma Economic Development
747 Market Street, Room 900
Tacoma, WA 98402

RE: Water Quality Certification Number 2454 for Corps Public Notice Number 200101242 to construct a 3.5 acre city park and restore shoreline conditions along Commencement Bay in Tacoma, Pierce County, Washington

Dear Mr. Alford:

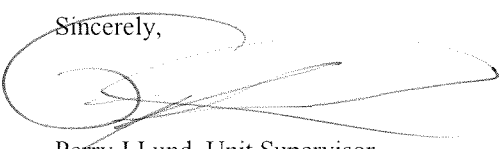
The public notice issued by U.S. Army Corps of Engineers on October 22, 2004 for proposed work in Commencement Bay, Pierce County, Washington has been reviewed. On behalf of the State of Washington, we certify that the work proposed in the application for Department of Army permit, and Corps public notice complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law. This letter also serves as the State response to the Corps of Engineers.

Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with the applicant's determination that this work is consistent with the approved Washington State Coastal Zone Management Program. This concurrence is based upon the applicant's compliance with all applicable enforceable policies of the Coastal Zone Management Program, including Section 401 of the Federal Water Pollution Control Act.

- This certification concurrence is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Jo Sohneronne at (360) 407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Perry J Lund, Unit Supervisor
Southwest Regional Office
Shorelands and Environmental Assistance Program

PJL:JS:dn
Enclosure

cc: Susan Glenn, U.S. Army Corps of Engineers Seattle District
Mr. Jim Brennan, J. A. Brennan Associates
Dave Molenaar, WSDFW, Region 6
Karie Hayashi, BLUS, Public Works Department



IN THE MATTER OF GRANTING) ORDER #2454
A WATER QUALITY) (Corps No. 200101242)
CERTIFICATION TO) To Construct a 3.5 acre city park and restore shoreline
City of Tacoma) conditions along Commencement Bay in Tacoma, Pierce
in accordance with 33 U.S.C. 1341) **County, Washington**
FWPCA § 401, RCW 90.48.260,)
RCW 90.48.120 and WAC 173-201A)

TO: City of Tacoma Economic Development
747 Market Street, Room 900
Tacoma, WA 98402

ATTN: Mr. Mr. Bart Alford

On October 22, 2004, a public notice for a proposed water quality certification from the State of Washington was distributed for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

The proposed project involves construction of a 3.5 acre city park and restoration of shoreline conditions as follows:

1. creation and enhancement of intertidal and upland habitat to include:
 - a. removal of 151 to 200 feet (400 cubic yards) of manmade concrete rubble bankline protection
 - b. removal of 8 wood pilings
 - c. creation of 800 square foot tidal marsh and 6400 square foot freshwater pond habitat
 - d. planting native vegetation approximately 40 feet wide along 1200 feet of marine shoreline
 - e. planting and monitoring of upland and aquatic vegetation
2. installation of shoreline protection along three sections of shoreline as follows:
 - a. The northwest, 420 foot long section will have a 5 foot thick layer of armor rock overlying a 2 foot thick layer of filter stone extending from +18 feet to +3 feet Mean Lower Low Water (MLLW). A 2 foot thick terrace of cobbles will extend from +3 feet to about 0 feet MLLW. The cobble layer will be covered with a mixture of sand and gravel.
 - b. The central, 105 foot long section will have a 3 foot layer of cobble over concrete block mats extending from +18 feet to +2 feet MLLW on a slope of 5:1. From +2 feet to 0 feet MLLW the same material will be at a slope of 10:1. Sand and gravel will be placed over the cobble. Logs and root wads will be added to the shoreline in the vicinity.
 - c. The southeast, 210 foot long section adjoining the Tacoma Salt Marsh site will have a 3 foot layer of cobble overlying a concrete block mat. The surface of this substrate will extend from +18 feet to between +4 and 0 feet MLLW at varying slopes. A mix of sand and gravel will cover the cobble. A small cove within this section will have varying slopes at intertidal elevations.

The site is located at the 1741 N Schuster Parkway in Section 29, Township 21 North, Range 3 East, Willamette Meridian, Tacoma, Pierce County, Washington.

AUTHORITIES:

In exercising authority under 33 U.S.C. 1341, 16 U.S.C. 1456, RCE 90.48.120 and RCW 90.48.260, Ecology has investigated this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 302, 303, 306, and 307);

2. Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other appropriate requirements of state law; and,
3. Conformance with the provision of using all known, available, and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

In view of the foregoing and in accordance with 33 U.S.C. 1341, 90.48.260 RCW, 90.48.120 RCW and Chapter 173-201A WAC, certification is granted to the City subject to the following conditions:

A. No Further Impairment of Existing Water Quality

- A1. Commencement Bay is a Class A water of the state. Certification of this proposal does not authorize the City of Tacoma (the City) to exceed applicable state water quality standards (173-201A WAC) or sediment quality standards (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(1) and WAC 173-201A-040 shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-110(3). Furthermore, nothing in this certification shall absolve the City from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.
- A2. Per WAC 173-201A-110(3), a temporary turbidity mixing zone is allowed immediately after necessary in-water construction activities that result in the disturbance of in-place sediments. Under no circumstance shall the following standard be exceeded 150 feet from the activity causing the turbidity:
 - (1) Turbidity shall not exceed 5 NTU over background turbidity when the background turbidity is 50 NTU or less, or have more than a 10 percent increase in turbidity when the background turbidity is more than 50 NTU. [WAC 173-201A-030(2) (B)(v)]

B. Timing:

- B1. This Order is valid until all compliance requirements in this document have been met.
- B2. Work below the ordinary high water mark shall only occur from August 1 through February 14 of any year.

C. Notification Conditions:

- C1. The City shall notify Ecology's Southwest Regional Office Federal Permit Coordinator at least fourteen (14) days prior to the start of work below the ordinary high water mark of Commencement Bay or within wetlands.
- C2. The City shall notify Ecology's Southwest Regional Office Federal Permit Coordinator within fourteen (14) days after completion of construction.
- C3. The City shall ensure that all appropriate project engineers and contractors at the project site shall have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment #A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology no more than 30 and

no less than seven (7) days before that project engineer or contractor is scheduled to start work on the project site.

NOTE: These notifications shall include the applicant's name, project name, project location, the number of this Order, contact and contact's phone number.

D. Monitoring and Reporting Conditions:

- D1. Water Quality: During and immediately after project construction, the City or the contractor shall visibly monitor the temporary turbidity mixing zone. If water quality exceedances are observed outside the mixing zone, work shall cease immediately and the City or the contractor shall assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further water quality exceedances. The City or the contractor shall notify Ecology's Federal Permit Coordinator at the Southwest Regional Office at (360) 407-6926 of the exceedances. If the results of the monitoring shows that the water quality standards or project performance standards are not being met additional monitoring and mitigation maybe required.
- D2. Created tidal and freshwater marshes and shoreline revegetation: Monitoring shall be as described in Tacoma Chinese Garden and Reconciliation Park (Xie He Yuan) Monitoring Plan prepared for the City of Tacoma Economic Development Department by J.A. Brennan Associates, February 2004 except as modified below:
- D2a. For the area of Native Coastal Pacific Northwest Vegetation area shown on figure 7: Shoreline Vegetation Plan in the Joint Aquatic Resource Permit Application and the Public Notice, the Performance Standards shall be modified as follows:
- (1) Years 1 and 2: At least 80 % survival of planted native trees and shrubs; maximum 5% areal cover by invasive species. Trees and shrubs will show healthy, vigorous growth.
 - (2) Years 3 and 4: At least 30% areal cover of healthy, vigorous native trees and shrubs. Maximum 5% areal cover by invasive species.
 - (3) Year 5: More than 50% areal cover of healthy, vigorous native trees and shrubs. Less than 5% areal cover of invasive species.
- D2b. A detailed "as built" report shall be prepared upon completion of the created tidal and freshwater marshes and shoreline vegetation area showing any variances from the proposed plan. The "as-built" shall be the baseline document used for all future monitoring. It shall include but not be limited to:
- (1) final site plan showing site topography (both site plan view and typical sections) and clearly indicating the site boundary;
 - (2) photographs of the area taken from permanent photo points which will be designated on the site plan;
 - (3) the installed planting scheme showing densities, sizes, and approximate locations of plants as well as plant sources and time of planting; and,
 - (4) an analysis of any changes to the plan that occurred during construction.
- D2c. Copies of the "as built" report and the monitoring reports described under Reporting Requirements on page 5 of the monitoring plan shall be submitted to Ecology within 30 days of the site visit.
- D2d. The City shall submit any proposed adaptive management actions to Ecology for review at least 30 days prior to implementation.

D2e. All reports and plans shall be sent to: Federal Permit Coordinator, Department of Ecology, Southwest Regional Office, PO Box 47775, Olympia, WA 98504-7775.

E. Construction Conditions:

- E1. Work in or near waters of the state shall be done so that it minimizes turbidity, erosion, and other water quality impacts.
- E2. All construction debris shall be properly disposed of upland so that it cannot enter a waterway or cause water quality degradation to state waters.
- E3. Bed material that may be contaminated with creosote shall be removed using suction and disposed upland at an appropriate waste site.
- E4. Wash water containing oils, grease, or other hazardous material resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.
- E5. No wood, metal, or concrete preservatives, paints, sealers, glues, epoxies, chemicals, or other substances harmful or toxic to fish or shell fish shall be applied to the pier system once it has been placed within or over the ordinary high water mark of the Commencement Bay.
- E6. The City shall ensure holes from which perimeter pilings are extracted will be filled with pea gravel from a clean upland source.

F. Emergency/Contingency Measures:

- F1. In the event the City is unable to comply with any of the terms and conditions of this Order, due to any cause, or an activity causing distressed or dying fish, the City shall:
 - F1a. Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
 - F1b. Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-hour spill response team at (360) 407-6300, and within 24 hours to Ecology's Southwest Regional Office Permit Coordinator at (360) 407-6926.
 - F1c. Submit a written report to Ecology within five days that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
- Compliance with this condition does not relieve the City from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.
- F2. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.

G. General Conditions:

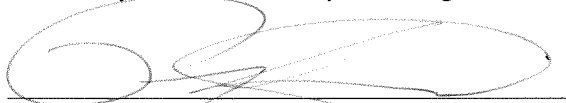
- G1. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources **except** as specifically provided for in conditions of this Order.
- G2. This Order does not exempt the City from, and is conditioned upon compliance with, other statutes and codes administered by federal, state, and local agencies.
- G3. The City shall construct and operate the project in a manner consistent with the project description contained in the Public Notice for certification.

- G4. The City shall reapply with an updated application if the information contained in the Public Notice is voided by subsequent submittals to the federal agency. Any future action at this project location, emergency or otherwise, that is not defined in the public notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.
- G5. The City shall provide access to the project site upon request by Ecology personnel for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.
- G6. Copies of this Order and all related permits, approvals, and documents shall be kept on the project site and readily available for reference by the project managers, construction managers and foremen, other employees and contractors of the City and state agency personnel.
- G7. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect the public interest.
- G8. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.

Appeal Process:

Any person aggrieved by Order #2454 may obtain review thereof by appeal. Pursuant to Ch. 43.21B. RCW, a person can appeal this order to the Pollution Control Hearings Board within 30 days of the date of receipt of this Order. Any such appeal must be sent to the Washington Pollution Control Hearings Board, PO Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, Attn: Loree' Randall, PO Box 47600, Olympia, WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated May 12, 2005 at Lacey, Washington.



Perry J Lund, Unit Supervisor
Shorelands and Environmental Assistance Program
Department of Ecology – Southwest Regional Office

Attachment # A
Water Quality Certification
Statement of Understanding

I, _____, state that, I will be involved as an agent or contractor for the City in construction of the Chinese Reconciliation Park Project. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order #2454 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company